

2008 Consent Decree Frequently Asked Questions and Answers

September 8, 2009

1.	Question: What are the prohibitions on beach night driving?	Answer: Night driving is now prohibited on ocean beaches from 10 p.m. to 6 a.m. from May 1 until Nov. 15. Night driving may be allowed by permit from 10 p.m. to 6 a.m. Sept. 16 – Nov. 15.
2.	Question: Why is there a prohibition on beach night driving?	Answer: The ban on ocean beach night driving has been implemented to protect nesting sea turtles. All sea turtles are protected under the Endangered Species Act. Adult female sea turtles lay their nests on the beach during night hours and newly hatched young will leave the nest at night to make their way to the ocean. Both adult and hatchling sea turtles may be impacted by beach driving vehicles and their headlights.
3.	Question: Can I drive out to the beach, park my vehicle on the beach and fish all night, then not drive it until 6 a.m.?	Answer: No, all vehicles must exit the beach by 10 p.m.
4.	Question: Can I be dropped off on the beach before 10 p.m., fish all night and be picked up at 6 a.m.?	Answer: Yes, however, pedestrians are still prohibited from entering resource closures.
5.	Question: If I stay on the beach all night and fish, how much light can I have on the beach?	Answer: Small beamed flashlights and low light-level lanterns are fine.
6.	Question: If I launch my boat on the soundside, but I do not get back until after 10 p.m., can I use my ORV to retrieve my boat from the soundside ramp?	Answer: Yes, the night driving ban does not apply to the soundside ramps.
7.	Question: Can I have fires on the beaches?	Answer: Yes, fires are allowed up to midnight, but are prohibited from midnight until 6 a.m. Before you leave the beach, you must extinguish your fire with water.
8.	Question: When can I get my permit for driving on the beach at night from Sept. 16 – Nov. 15?	Answer: The National Park Service has not yet finalized the permit system. This information will be available to the public prior to the implementation date of Sept. 16. Check the park website, www.nps.gov/caha for updated information prior to your visit.
9.	Question: Can I put my name on a list right now to ensure I get a permit?	Answer: A list for night driving permits from Sept. 16 – Nov. 15 is not needed at this time. The permits will be readily available prior to the implementation date of Sept. 16.
10.	Question: How much will the permits cost?	Answer: There will be no charge for the Sept. 16 – Nov. 15 night driving permits.

11.	Question: Does the night driving ban on vehicles apply to bicycles?	Answer: No.
12.	Question: Does the night driving ban on vehicles apply to horses?	Answer: No.
13.	Question: What do I do if I see a sea turtle?	Answer: Stay back at least 100 feet so that you do not disturb the turtle. Turn off all lights and do not use flash photography. Call the park, so that we can protect the nest (252) 216-6892.
14.	Question: Can I use a boat – with or without a motor – to get around bird closures to beaches that are not closed?	Answer: Yes.
15.	Question: Say there is a bird closure that keeps me from being able to drive to another section of beach further down that is not closed. Can I walk through the ocean water in front of closed beach section in order to get to the not closed beach section if I want to fish or recreate in the not closed section?	<p>Answer: We frequently hear the question – “Can I walk in the water around a full beach closure to access those stretches of beach that are open beyond the closure (with restricted access)?” According to the DOI Solicitor’s Office, from a legal point of view, the NPS jurisdictional boundary on the ocean shoreline, in most cases, is the mean low water mark. However, “on the ground” in the field, when it is NOT low tide, it is not clear how the public, (or the rangers who enforce the regulations for that matter) can determine the exact location of mean low tide at that precise time. For all practical purposes, <u>unless otherwise posted*</u>, passage by a resource closure is permitted if the closure is small enough in length for a person to see the opposite posted boundary (less than a half mile) and if one is able to walk at least knee deep in the low tide (surf) zone the entire distance and re-enter into an open area. Visitors must use their own discretion as to whether it is safe to walk this close to the pounding surf zone and if the distance passing through the closure in the surf zone is of short enough distance to the opposite closure boundary that they feel they can safely bypass the protected area of the beach. Rule of thumb: If you are on the shore, i.e., if your feet aren’t wet, within these closed areas, then you are violating the closure and are subject to the relevant penalties. <u>Under NO circumstances are pets allowed through these areas.</u> In addition, this is not recommended for small children.</p> <p><i>*In some cases, there will be signs to prohibit any access past a given point. These areas will be signed accordingly with “Shoreline closed at all tides to pedestrians and ORVs.”</i></p> <p>On paragraph 22 of the Consent Decree, it states that “NPS retains discretion at all times to enforce more protective closures or take other measures, if considered necessary, consistent with its obligations under law and this Consent Decree.” Please understand that violations of these resource closures</p>

		will result in more stringent interpretation of this admittedly difficult situation. NPS staff continues to work with the Solicitors and the U.S. Attorney's Office to come to terms with this issue. It is safe to say "when in doubt, avoid entering these areas." Entry into clearly marked, posted protection areas is a violation of the Consent Decree and park regulations and may result in court charges.
16.	Question: Considering the price of gas and the fact that I live too far away to take the chance of the Point not being accessible, is there anytime that I can plan ahead to spend time on the Point?	Answer: During the summer nesting season for shorebirds and sea turtles, there is no way to predict when Cape Point might be accessible to ORVs so you can plan ahead. However, when the nesting season winds down about the end of August, you will have a good chance of getting to the Point. Check the park website, www.nps.gov/caha for updated information prior to your visit.
17.	Question: I will be traveling to Hatteras soon, and I understand the closures are subject to change at any moment. I feel confident that if a closure is at a ramp it will be clearly marked. If a closure is on a section of beach will it be marked with signs along with the tape/rope barrier? I know that in the past, barriers were used but they still allowed for traffic to pass between them and the protected area. I just want to make sure that if I approach a roped-off area with no sign and plenty of beach between the surf and the marked area, that it is okay to continue. I certainly do not want to be in violation of any closures.	Answer: All closures will be clearly marked on the beaches. You should have no problem deciding if an area is open to ORVs or not. However, when in doubt, stay out of the area.
18.	Question: We visit the Outer Banks every fall for a fishing trip. Will the permits for night driving be available for out-of-town fishermen? Also, what is the difference in "NO" night driving versus having a permit to night drive? Will we be able to get to the Point in Buxton to fish?	<p>Answer: There is no night driving allowed between May 1 and Sept. 15. From Sept. 16 until Nov. 15, driving will be allowed at night with a permit only. Permits will be readily available from the National Park Service for islanders and visitors. There will be no limit and no fee.</p> <p>The purpose of the permit is to get educational materials about night driving on the seashore into the hands of ORV operators. Though most bird nesting is finished by mid-September, there are still sea turtle nests on some seashore beaches. Newly hatched turtles can become disoriented on their trip to the ocean by bright lights from vehicles, fishermen, bonfires, and even oceanfront cottages.</p> <p>More information on how to get the permit will be available closer to Sept. 16.</p> <p>Cape Point should be accessible to ORVs this fall when the nesting season winds down.</p>
19.	Question: Is it true that Cape Point and South Beach (as well as other areas) will be	Answer: No. Cape Point and South Beach will continue to be closed at times during the spring and

	closed for at least one year?	summer months for the pre-nesting and nesting of shorebirds and sea turtles. Access should be available in the fall and winter months.
20.	Question: Exactly where do I go to get accurate information about closures?	Answer: The Cape Hatteras National Seashore website is your best source for information. On this website, you can find the current NPS weekly beach access report and current ORV access maps, using Google Earth, which show the various closure areas for the park's entire coastline. You can access the park's website at www.nps.gov/caha . In addition, you could check at our park visitor centers or by calling the park's main phone-line, 252-473-2111.
21.	Question: I have pulled up the maps on your site and believe our visit will not be affected. But I would like to know, what exactly is "Long Term Narrow Beach Closures?"	Answer: Long-term narrow beach closures refers to areas that have been closed for some time for safety reasons – the beach is too narrow at certain tides for ORVs to safely navigate.
22.	Question: Are the fireworks displays that happen on the 4th of July in Hatteras and at Avon going to be allowed this year with the restrictions on night driving and lights?	Answer: Fireworks are prohibited in the National Seashore. The villages obtain annual permits from the NPS for the annual village 4 th of July displays. The restrictions on night driving and lights will not affect these annual village fireworks displays.
23.	Question: How far into the ocean does the National Park Service jurisdiction extend? I was told that it extended to the mean low tide line. Is that correct?	Answer: Yes.
24.	Question: Why was the magic hour of 10 p.m. chosen to close the beach? Why not 2 a.m. as this would surely give the night-time drum fishermen the most of their prime fishing hours and still leave plenty of darkness for the wildlife. Was this hour just grabbed out of the hat or is there a scientific reason for choosing 10 p.m.? Please don't tell me that a judge or government official just grabbed this time out of the hat.	Answer: The Consent Decree stipulates the 10:00 p.m. time. In part, the night-time driving ban is to protect sea turtle hatchlings who could be hindered on their trip back to the ocean by bright headlights from vehicles. In the summer months, it is often 9 p.m. or so before it is dark. The 10 p.m. hour gives everyone time to get off the beach. Night-time driving permits will be available from Sept. 16 through Nov. 15.